

# Master's Thesis Supervisor's Expert Opinion

Student: **Osei-Mensah Ama Fobi**

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Title of Master's Thesis: Free movement of capital in the EU

Aim of the Thesis: The aim of the thesis was to analyse the principle of free movement of capital which applies directly to the laws of EU countries. The enforcement activity of the European Commission ensuring that EU countries properly apply the rules of the Treaty was studied. Most common restrictions to the free movement of capital and acts to eliminate any barrier that is incompatible with the Treaty were to be defined through analysis of the European Court of Justice case law. Finally, the powers of the Commission were to be evaluated and measures proposed to tackle possible shortcomings found through the analysis.

Thesis Supervisor: JUDr. Jan Janderová, Ph.D.

Study Programme: Regional Development and Governance

Academic Year: 2022/2023

## Difficulty of the Topic

|                                 | Excellent                           | Very good                           | Satisfactory             | Unsatisfactory           | Cannot be evaluated      |
|---------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Theoretical knowledge           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Input data and their processing | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Methods used                    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

## Thesis Evaluation Criteria

|   | Excellent                           | Very good                           | Satisfactory             | Unsatisfactory           | Cannot be evaluated      |
|---|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Degree of achievement of the aim of the thesis                | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Original attitude to the topic processing                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Adequacy of the methods used                                  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Depth of analysis (relative to topic)                         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Logical structure of the thesis and scope                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Working with Czech and foreign literature including citations | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Formal arrangement of the thesis (text, charts, tables)       | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Language level (style, grammar, terminology)                  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

## Applicability of the Results of the Thesis

|              | High                     | Medium                              | Low                      | Cannot be evaluated      |
|--------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| For theory   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| For practice | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

## Other Comments on the Thesis

The thesis analyses on approx. 75 pages of text the concept of free movement of capital in the EU and powers of the Commission in this policy area. To achieve the aim, the author first reviews literature to establish a theoretical background to the harmonisation of capital movement legislation and restrictions forbidden to the Member States. The thesis continues with an analysis of the Commission powers and enforcement activities. These are demonstrated through case studies of the ECJ case law. Moreover, the author analyses available data on infringement procedures carried out from 2017 to 2021. The author comes to a conclusion that the concept of free movement of capital is much nuanced by exceptions and derogations applied in different Member States which deserve control over their necessity and proportionality. The number of infringement procedures is thus increasing. As the area of restrictions proclaimed by the Member States to be protecting national security system and public security create in practice a grey zone (demonstrated by the case law analysis) the author recommends several measures including introduction of standardised reporting requirements for member States to provide comprehensive insights into capital movement activities enabling timely intervention from the part of the EU Commission.

The literature research and the case law study were carried out thoroughly. It can be summarized that the student approached her work conscientiously and responsibly. The work is readable and exhibits only rare grammatical errors that do not prevent the text from being comprehensible. However, it suffers from some formal layout issues. The studied subject is discussed in a comprehensive way, the methods used adequately. The research aim was met. Still, the author could have provided a more detailed recommendation to what extent the Commission's powers should be improved. The work thus meets all the diploma thesis requirements. For all these reasons and because of the thoroughness of the analysis part, I rate the thesis with the mark B, as shown below.

## Comments on the Outputs from the Theses System

The thesis is not burdened with plagiarism, the maximum match with similar works shown by the anti-plagiarism system is 3%.

## Questions and Suggestions for Defence

1. Please explain in more detail the implications of free movement of capital on neighbouring states and the positives and negatives for non-European actors you mention in chapter 5.5 and 5.6. Can you provide some examples using investors instead of nurses used in your thesis?
2. In your recommendations you suggest providing precise definitions and guidelines related to capital movement, to mitigate the grey zones where Member States restrict capital movement to protect their national security systems. Based on your ECJ cases analysis could you clarify where you see the most crucial grey areas and ambiguities and what exactly should be determined more precisely?

## Final Evaluation

I **recommend** the thesis for the defence.

I propose to grade this Master's thesis as follows: **B**

In Pardubice 4.1.2024

Signature .....